

Appl. No. 10/750,791
Amdt. dated June 15, 2007
Reply to Office Action of March 16, 2007

REMARKS/ARGUMENTS

Applicants received the Office Action dated March 16, 2007, in which the Examiner: 1) objected to claim 8 because of informalities; 2) rejected claims 1-4 under 35 U.S.C. § 102(b) as being allegedly anticipated by Krexner et al. (U.S. Pat. No. 6,005,924, hereinafter “Krexner”); 3) rejected claims 5-7, 9-11, 13 and 17-21 under 35 U.S.C. § 103(a) as obvious over Krexner and Takano et al. (JP 11-275301 and JP 11-275302, hereinafter “Takano”); 4) rejected claim 8 as obvious over Krexner, Takano and Kobayashi et al. (U.S. Pat. No. 5,835,240, hereinafter “Kobayashi”); 5) rejected claims 12 and 22-24 as obvious over Krexner, Takano and Motoyama (U.S. Pat. No. 5,818,603, hereinafter “Motoyama”); 6) rejected claims 14-16 as obvious over Krexner, Takano and Gray et al. (U.S. Pat. No. 3,694,574, hereinafter “Gray”); 7) provisionally rejected claims 1-5, 7, 9, 10, 12-14, 16 and 21 under the judicially created doctrine of obviousness-type double patenting over co-pending App. No. 10/750,804 ('804) in view of Krexner; 8) provisionally rejected claim 8 under the judicially created doctrine of obviousness-type double patenting over '804 in view of Kobayashi; 9) provisionally rejected claim 11 under the judicially created doctrine of obviousness-type double patenting over '804 in view of Takano; and 10) provisionally rejected claims 6, 18-20 and 22-24 under 35 U.S.C. § 101. With this Response, Applicants have amended claims 1, 6, and 18. Based on the arguments and amendments contained herein, Applicants believe this case to be in condition for allowance.

I. OBJECTION OF CLAIM 8

Claim 8 is supported in Applicants' disclosure in at least paragraph [0015] as the Examiner has noted.

II. THE ART REJECTIONS

Applicants amend claim 1 to require that the “monitoring” that is being performed comprises monitoring of an incoming phone while and after the incoming call is answered by a human or answering machine. That is, a human or answering machine answers an incoming call, during which time the method requires the answered call to be monitored for a facsimile tone. If a facsimile tone

is not detected, the answered call is allowed to proceed; otherwise the device is initialized to receive an incoming facsimile transmission.

Krexner, by contrast, precludes the first ring from occurring so that the device itself can answer and monitor the line for a facsimile tone. If the first ring is silenced, a human will not be aware of the existence of the incoming call and will not answer the call. Silencing the first ring in Krexner buys the Krexner device some time to monitor the line for a facsimile tone without interference from a human that otherwise might have picked up another handset. Claim 1 requires the line is to be monitored for a facsimile tone while, and after, the incoming call is answered. Krexner lacks such a teaching. No other art of record satisfies the deficiency of Krexner. For at least this reason, claim 1 and all claims dependent thereon are in condition for allowance.

Amended claim 6 requires means for monitoring an incoming phone call for a facsimile tone from an incoming call being answered "by a human or answering machine" during the incoming call. As explained above, Krexner and the other art of record lacks such a teaching. For at least this reason, claim 6 and all claims dependent thereon are in condition for allowance.

Amended claim 18 requires means the device to monitor "human or answering machine-answered incoming phone calls" to internally intercept incoming facsimile transmissions and initialize said facsimile functionality to receive said incoming facsimile transmissions. As explained above, Krexner and the other art of record lacks such a teaching. For at least this reason, claim 18 and all claims dependent thereon are in condition for allowance.

III. PROVISIONAL DOUBLE PATENTING REJECTIONS

Applicants do not concede the merits of the Examiner's double patenting rejection. Further, because co-pending application 10/750804 has not yet issued, Applicants respectfully request the Examiner (who is also examining such co-pending case), to hold the double patenting rejection in abeyance and again consider whether a double patenting rejection still makes sense for the later allowed of the two cases (10/750804 and the present case).

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IV. CONCLUSION

Applicants respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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